

FISH & WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: May 22, 2014

Agenda Item: Big Hole River and Powerhouse Fishing Access Site Closure Rule

Division: Fisheries

Action Needed: Final Action

Time Needed on Agenda for this Presentation: 10 minutes

Background

In March the F&W Commission proposed a rule that would enable FWP to temporarily close the Powerhouse FAS and a short section of the Big Hole River for public safety reasons. The Montana Department of Transportation notified FWP of its intent to conduct repairs and upgrades to Silver Bridge on the Big Hole River beginning July 1, 2014. Silver Bridge is adjacent to the Powerhouse FAS, near Divide. MDT will require the contractor to provide safe public float passage, including a 40-foot effective opening between instream construction-related obstructions, and appropriate navigational signage and hazard posting. MDT does not anticipate that the construction will create conditions that require temporary closures of the river or the FAS. As a precaution, however, MDT requested a rule that would authorize FWP, in consultation with the local Commissioner, to temporarily close the river and/or the FAS during the construction timeline (July 1 – Dec.1, 2014). The contractor will be required to notify FWP of such a request. FWP will make it clear to MDT and the contractor that the Big Hole is very popular and important to the regional tourism economy, and that FWP will only consider closures if there are no other reasonable alternatives.

Public Involvement Process & Results

FWP received five comments generally supportive of the closure rule, with some people pointing out that the effective dates are important. They did not want the potential of a closure during the month of June, presumably when the salmon fly hatch is occurring. Two people were concerned about the potential for a closure in July and preferred that the construction not take place until August.

Alternatives & Analysis

The Commission could choose not to propose a rule closing the river. This could lead to emergency conditions that would precipitate the adoption of an emergency rule to close the river and/or the FAS. The Commission could change the effective start date of the closure authority to later in the summer. This would not coincide with MDT's construction window and therefore could result in the need for emergency closures or a delay in construction.

Agency Recommendation & Rationale

FWP recommends that the Commission adopt the rule with one amendment to help clarify that FWP would have the authority to close to floating the Big Hole River from Greenwood Bottom FAS to 1,000 feet below the Silver Bridge construction site. This amendment is necessary to avoid someone launching at Greenwood Bottom with the intent to take out at Powerhouse. FWP also clarified in the proposed motion below that the construction period ends on Dec. 1, 2014 (the instream portion of the construction is to conclude in October).

Proposed Motion

I move the Commission adopt an annual rule authorizing the department, in consultation with the local Commissioner, to temporarily close a portion of the Big Hole River and/or the Powerhouse Bridge FAS to address public safety concerns related to the repair of Silver Bridge from July 1 to Dec.1, 2014.